

United States District Court
Northern District of California

BARBARA CRANE,

Plaintiff,

v.

WELLS FARGO, DOES 1-20, inclusive,

Defendants.

Case No.: 4:13-cv-1932 KAW

ORDER REGARDING MOTIONS TO
REMAND AND DISMISS; ORDER TO
SHOW CAUSE

Plaintiff Barbara Crane, proceeding pro se, filed this case against Defendant Wells Fargo Bank, N.A. ("Wells Fargo") in Marin County Superior Court on March 28, 2013. Wells Fargo removed the case to federal court on April 26, 2013.

On May 3, 2013, Wells Fargo filed a motion to dismiss. Plaintiff did not oppose the motion to dismiss, but instead filed a motion to remand the case to state court on May 29, 2013. Thereafter, Plaintiff filed an amended complaint on June 19, 2013. Wells Fargo filed a motion to dismiss the First Amended Complaint on July 2, 2013.

Plaintiff's motion to remand was fully briefed, and was denied on July 19, 2013. On August 6, 2013, the Court ordered Plaintiff to show cause why her case should not be dismissed for failure to prosecute, as she had not opposed Defendant's motion to dismiss the First Amended Complaint. In response, Plaintiff filed a declaration captioned as "Declaration of Barbara Crane in response to Order to Show Cause; and in Opposition to Wells Fargo's Second Motion to Dismiss." In that declaration, Plaintiff asked the Court to reconsider its denial of her motion to remand, stating that she did not understand the Court's questioning regarding her original complaint during the hearing, and therefore answered incorrectly, which would be material.

Based on the content of the declaration, the Court construed the filing as a motion for leave to file a motion for reconsideration of the Court's denial of Plaintiff's motion to remand.

1 The Court's August 23, 2013 order granted Plaintiff leave to file a motion for reconsideration
2 within 30 days. Plaintiff did not file such a motion, so the Court's previous order denying
3 Plaintiff's motion to remand remains in effect, and the case will remain in federal court.

4 In the August 23 order, the Court stated that it would not rule on Well Fargo's motion to
5 dismiss Plaintiff's First Amended Complaint until it determined that the case should not be
6 remanded. While not explicitly addressed in that order, despite the caption, the Court does not
7 consider Plaintiff's August 6, 2013 declaration to be an opposition to Defendant's motion to
8 dismiss, as it does not address any of Defendant's arguments.

9 Accordingly, by no later than **November 8, 2013**, Plaintiff shall show cause why her case
10 should not be dismissed for failure to prosecute, and file her opposition to the motion to dismiss the
11 First Amended Complaint or a statement of non-opposition to the motion to dismiss. The response
12 to this order to show cause and the opposition should be filed as separate documents. Failure to
13 timely file both documents may result in the dismissal of this action for failure to prosecute.

14 To aid in her compliance with this order, Plaintiff may wish to consult a manual the court has
15 adopted to assist pro se litigants in presenting their case. This manual, and other free information, is
16 available online at: <http://cand.uscourts.gov/proselitigants>. Plaintiff may also contact the Federal
17 Pro Bono Project's Help Desk—a free service for pro se litigants— by calling (415) 782-8982 to
18 make an appointment to have any remaining questions answered.

19 IT IS SO ORDERED.

20 DATE: October 24, 2013

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22 KANDIS A. WESTMORE
23 UNITED STATES MAGISTRATE JUDGE
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